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Anthony J.M. Garwood

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EXAMINER

BECKER, BREWE

ART UNIT

PAPER NUMBER

1781

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/724,287

Applicant(s)

GARWOOD, ANTHONY J.M.

Examiner

Drew E Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(d).

Status

- 1) ☒ Responsive to communication(s) filed on 22 April 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 353-373 and 422-487 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 353-373 and 422-487 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Request for Continued Examination

1. The request filed on April 19, 2004 for an RCE based on parent Application No. 09/724,287 is acceptable and a RCE has been established. An action on the RCE follows.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-37 of copending Application No. 10/320,863 in view of Groves et al. It would have been obvious to one of ordinary skill in the art to incorporate fat based blending of Groves et al since this would have provided a properly balanced meat product.

This is a provisional obviousness-type double patenting rejection.

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4. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 44-59 of copending Application No. 10/368,933 in view of Groves et al. It would have been obvious to one of ordinary skill in the art to incorporate fat based blending of Groves et al since this would have provided a properly balanced meat product.

This is a provisional obviousness-type double patenting rejection.

5. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-21 of copending Application No. 10/369,079 in view of Wiley. It would have been obvious to one of ordinary skill in the art to incorporate the packaging techniques of Wiley since this would have better preserved the meat product.

This is a provisional obviousness-type double patenting rejection.

6. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-42 of copending Application No. 10/384,853 in view of Groves et al. It would have been obvious to one of ordinary skill in the art to incorporate fat based blending of Groves et al since this would have provided a properly balanced meat product.

This is a provisional obviousness-type double patenting rejection.

7. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-12 of copending Application No. 10/385,264 in view of Groves et al. It would have been

obvious to one of ordinary skill in the art to incorporate fat based blending of Groves et al since this would have provided a properly balanced meat product.

This is a provisional obviousness-type double patenting rejection.

8. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-49 of copending Application No. 10/413,073 in view of Wiley. It would have been obvious to one of ordinary skill in the art to incorporate the packaging techniques of Wiley since this would have better preserved the meat product.

This is a provisional obviousness-type double patenting rejection.

9. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 21-35 of copending Application No. 10/418,558 in view of Groves et al. It would have been obvious to one of ordinary skill in the art to incorporate fat based blending of Groves et al since this would have provided a properly balanced meat product.

This is a provisional obviousness-type double patenting rejection.

10. Claims 353-373, 422-487 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-46 of copending Application No. 10/440,460 in view of Wiley. It would have been obvious to one of ordinary skill in the art to incorporate the packaging techniques of Wiley since this would have better preserved the meat product.

This is a provisional obviousness-type double patenting rejection.

Claim Rejections - 35 USC § 112

11. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

12. Claims 438 and 484 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
13. Claim 438 recites "a device capable of measuring:". It is not clear what the device measures.
14. Claim 484 recites "relatively high" and "relatively low". It is not clear levels would be considered to be "relatively high" and "relatively low".

Claim Rejections - 35 USC § 102

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 430-432 are rejected under 35 U.S.C. 102(b) as being anticipated by DE 2242865A.

DE 224265A teaches a method including combining quantities of sausage meat in a meat mincer while adding carbon dioxide and water, automatically controlling mincing and water addition, and the mincer being an enclosed conduit (abstract; Figure 1).

Claim Rejections - 35 USC § 103

17. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

18. Claims 353-356, 358-359, 477 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al [Pat. No. 4,171,164] in view of Inglis et al [Pat. No. 6,224,930], Goldsmith [Pat. No. 5,306,466], and McFarland [Pat. No. 3,992,985].

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content and batch number related to the animal from which it was harvested (column 4, line 66 to 5, line 20), and conduits (Figure 1, #53-56). Groves et al do not teach treating the meat with a bacteria reducing agent, transferring to barrier packages, removing oxygen from the packages, sealing the packages, and testing for E. coli. Inglis et al teach a method of treating meat by applying a bacteria reducing agent in the form of carbonic acid (column 4, line 50), exposing the meat to carbon dioxide (column 7, line 41), determining the water content and adding the proper amount (column 4, line 10), the use of sealed, case-ready barrier

packages (column 3, line 53), and the removal of oxygen and use of a modified atmosphere in the barrier package (column 1, lines 10-18). It would have been obvious to one of ordinary skill in the art to incorporate the carbonic acid and packaging techniques of Inglis et al into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al used raw meat which often included bacteria, since Groves et al would have required some means to package the blended raw meat, since the carbonic acid of Inglis et al would have reduced the amount of bacteria without negatively impacting the taste of the meat (column 3, line 25-28), and since the packaging of Inglis et al would have effectively preserved the meat of Groves et al (column 1, lines 10-18). Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44), the use of indicia (Figure 2, #16), and a tray with a recess (Figure 1, #10). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Groves et al, in view of Inglis et al, since all are directed to methods of processing and packaging meat, since Groves et al made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract). McFarland teaches a method of grinding meat with an atmosphere of carbon dioxide (column 3, line 15). It would have been obvious to one of ordinary skill in the art to incorporate the carbon dioxide of McFarland into the invention of Groves et al, in view of Inglis et al and Goldsmith, since all are directed to methods of processing and

packaging meat, since Groves et al already included grinding (Figure 1, #15), since Inglis et al already included the use of carbon dioxide in the package in order to better preserve the meat (column 7, line 41), and since carbon dioxide atmospheres were commonly used during grinding and blending as shown by McFarland (Figure 1).

19. Claim 357 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of Inglis et al, McFarland, and Goldsmith, as applied above, and further in view of The Wiley Encyclopedia of Packaging Technology, Second Edition.

Groves et al, Inglis et al, McFarland, and Goldsmith teach the above mentioned concepts. Groves et al, Inglis et al, and Goldsmith do not teach a chub package. Wiley teaches a chub meat package (page 204). It would have been obvious to one of ordinary skill in the art to incorporate the chub package of Wiley into the invention of Groves et al in view of Inglis et al and Goldsmith, since all are directed to methods of processing and packaging meat, since Groves et al included the blending of ground meat, and since ground meat was often packaged in chub packages as shown by Wiley (page 204).

20. Claims 360-365, 463, 478 are rejected under 35 U.S.C. 103(a) as being unpatentable over The Wiley Encyclopedia of Packaging Technology, Second Edition in view of Goldsmith and Cheng [Pat. No. 4,818,548].

Wiley teaches a method processing meat by obtaining meat primals with fat and water, reducing the bacteria, transferring the primals to containers, removing the oxygen, sealing the containers, storing the containers, removing the primals and cutting then into portions, introducing gas into the package, sealing the package, a high oxygen

environment, and a low oxygen environment (page 654, first column), and nutrition labeling (pages 674-680). Wiley does not teach testing for E. coli or the use of a barrier package which oxygen impermeable. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44). Cheng teaches a method of packaging meat placing it in an oxygen impermeable barrier package (column 8, lines 10-70). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Wiley since both are directed to methods of processing and packaging meat, since Wiley made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the impermeable barrier material of Cheng into the invention of Wiley since both are directed to methods of packaging meat, since Wiley already included a barrier packaging and re-packing the meat after it is cut up (page 654), since Wiley teach that too much oxygen can cause the meat to turn an undesirable brown color (page 651), and since the barrier material of Cheng would have prevented the penetration of too much oxygen and thus provided a longer shelf-life.

21. Claims 366-368, 427, 464, 479 are rejected under 35 U.S.C. 103(a) as, being unpatentable over Cheng in view of Goldsmith and McFarland.

Cheng teaches a method of processing meat by placing meat in a barrier package which is oxygen impermeable and sealing it with as little as 2% oxygen (column 8, lines

10-70). Cheng does not teach grinding the meat in a carbon dioxide atmosphere and testing for E. coli. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44). McFarland teaches a method of grinding meat with an atmosphere of carbon dioxide (column 3, line 15). It would have been obvious to one of ordinary skill in the art to incorporate the carbon dioxide grinding of McFarland into the invention of Cheng since all are directed to methods of processing and packaging food, since Cheng already included meat as well carbon dioxide (column 8, lines 10-70), and since carbon dioxide atmospheres were commonly used during grinding and blending as shown by McFarland (Figure 1). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Cheng since both are directed to methods of processing and packaging meat, since Cheng made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract).

22. Claims 369, 373, 428, 441-442, 447-450, 462, 466, 468, 480 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of DE 2242865A and Montanari et al [Pat. No. 5,478,990].

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content and batch number related to the animal from which it was harvested (column 4, line 66 to 5, line 20), and conduits

(Figure 1, #53-56). Groves et al do not teach treating with an agent comprising water, determining water content, packaging, testing for E. coli, and applying animal info. DE 2242865A teaches a method of making a food product by mincing meat while adding carbon dioxide and water, as well as measuring the water content (abstract). Montanari et al teach a method of making food by packaging meat (column 14, line 47) testing for pathogens (column 12, line 30), and applying information to the meat product (column 16, lines 20-28). It would have been obvious to one of ordinary skill in the art to incorporate the water and carbon dioxide of DE 2242865A into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al already included grinding and measuring the meat (Figure 1, #12-13 & 15), and since the water and carbon dioxide of DE 2242865A would have helped control microbial growth in addition to preventing the meat from becoming too dry. It would have been obvious to one of ordinary skill in the art to incorporate the labeling of Montanari et al into the invention of Groves et al, in view of DE 2242865A, since all are directed to methods of processing meat, since Groves et al already included ground meat which would have required some packaging means, and since the tracking labels of Montanari et al would have efficiently provided a means of tracking the meat back to its origin in case of contamination, or other problems.

23. Claims 370-372 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of DE 2242865A and Montanari et al, as applied above, and further in view of Inglis et al.

Groves et al, DE 2242865A, and Montanari et al teach the above mentioned concepts. Groves et al, DE 2242865A, and Montanari et al do not recite the use of carbonic acid. Inglis et al teach a method of treating meat by applying a bacteria reducing agent in the form of carbonic acid (column 4, line 50), exposing the meat to carbon dioxide (column 7, line 41), determining the water content and adding the proper amount (column 4, line 10), the use of sealed, case-ready barrier packages (column 3, line 53), and the removal of oxygen and use of a modified atmosphere in the barrier package (column 1, lines 10-18). It would have been obvious to one of ordinary skill in the art to incorporate the carbonic acid of Inglis et al into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al used raw meat which often included bacteria, since Groves et al would have required some means to package the blended raw meat, and since the carbonic acid of Inglis et al would have reduced the amount of bacteria without negatively impacting the taste of the meat (column 3, line 25-28).

24. Claims 422-423, 425-426, 461, 465, 481 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng in view of Shaklai [Pat. No. 6,270,829].

Cheng teaches a method of processing meat by placing meat in a container, placing that container within a barrier package which is oxygen impermeable and sealing it with as little as 2% oxygen and the remainder of carbon dioxide and nitrogen (column 8, lines 10-70). Cheng does not teach the use of carbon monoxide. Shaklai teaches a method of packaging meat with carbon monoxide (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the carbon monoxide of Shaklai into the invention of Cheng since both are directed to methods of processing and packaging

meat, since Cheng already included a modified atmosphere package (column 8, lines 10-70), and since Shaklai teaches that carbon monoxide maintained the color and freshness of the meat while also retarding bacterial growth (abstract).

25. Claim 424 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, in view of Shaklai, as applied above, and further in view of Goldsmith.

Cheng and Shaklai teach the above mentioned concepts. Cheng and Shaklai do not recite testing. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as *E. coli* (abstract; column 1, line 44). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of Cheng since both are directed to methods of processing and packaging meat, since Cheng made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract).

26. Claim 429 and 467 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of DE 2242865A and Montanari et al, as applied above, and further in view of Shaklai.

Groves et al, DE 2242865A, and Montanari et al teach the above mentioned concepts. Groves et al, DE 2242865A, and Montanari et al do not recite the use of carbon monoxide. Shaklai teaches a method of packaging meat with carbon monoxide (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the carbon monoxide of Shaklai into the invention of Groves et al, in view of DE

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2242865A and Montanari et al, since all are directed to methods of processing and packaging meat, since Montanari et al already included a package (column 14, line 48), and since Shaklai teaches that carbon monoxide maintained the color and freshness of the meat while also retarding bacterial growth (abstract).

27. Claims 433-434 and 437 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2242865A as applied above, and further in view of Goldsmith. DE 2242865A teaches the above mentioned concepts. DE 2242865A does not recite testing. Goldsmith teaches a method of packaging meats by testing the packaged meat for bacteria, such as E. coli (abstract; column 1, line 44). It would have been obvious to one of ordinary skill in the art to incorporate the testing of Goldsmith into the invention of DE 2242865A since both are directed to methods of processing and packaging meat, since DE 2242865A made use of raw meat which often contained bacteria, since meat contaminated with bacteria often caused illness in the consumer, and since the testing of Goldsmith would have provided an effective means to determine whether the packaged meat was contaminated with bacteria (abstract).

28. Claims 435-436 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2242865A, in view of Goldsmith, as applied above, and further in view of Shaklai. DE 2242865A and Goldsmith teach the above mentioned concepts. DE 2242865A and Goldsmith do not recite the use of carbon monoxide. Shaklai teaches a method of packaging meat with carbon monoxide (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the carbon monoxide of Shaklai into the invention of DE 2242865A, in view of Goldsmith, since all are directed to methods of processing

and packaging meat, since Goldsmith already included a package (Figure 1), and since Shaklai teaches that carbon monoxide maintained the color and freshness of the meat while also retarding bacterial growth (abstract).

29. Claims 438-439, 469, 482-483 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of Cheng.

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content and batch number related to the animal from which it was harvested (column 4, line 66 to 5, line 20), and conduits (Figure 1, #53-56). Groves et al do not teach the use of less than 5% oxygen. Cheng teaches a method of processing meat by placing meat in a barrier package which is oxygen impermeable and sealing it with as little as 2% oxygen (column 8, lines 10-70). It would have been obvious to one of ordinary skill in the art to incorporate the 2% oxygen of Cheng into the invention of Groves et al since both are directed to methods of processing meat, since gases were commonly used during meat grinding in order to preserve the meat, since a total lack of oxygen would have turned the meat purple, and since the limited amount of oxygen taught by Cheng would have prevented the undesirable purple color from developing.

30. Claim 440 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, in view of Goldsmith and McFarland, as applied above, and further in view of Montanari et al.

Cheng, Goldsmith, and McFarland teach the above mentioned concepts. Cheng, Goldsmith, and McFarland do not recite information from the harvested animal.

Montanari et al teach a method of tracking meat by labeling the package with information related to the animal (column 14, line 45). It would have been obvious to one of ordinary skill in the art to incorporate the labeling of Montanari et al into the invention of Cheng, in view of Goldsmith and McFarland, since all are directed to methods of processing meat, since Cheng already included packaging (Figure 1), and since the tracking labels of Montanari et al would have efficiently provided a means of tracking the meat back to its origin in case of contamination, or other problems.

31. Claims 443-444 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Inglis et al, Goldsmith, and McFarland, as applied above, and further in view of Montanari et al.

Groves et al, Inglis et al, Goldsmith, and McFarland teach the above mentioned concepts. Groves et al, Inglis et al, Goldsmith, and McFarland do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Inglis et al already included packaging (abstract), since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

32. Claims 445-446 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley, in view of Cheng and Goldsmith, as applied above, and further in view of Montanari et al.

Wiley, Goldsmith, and Cheng teach the above mentioned concepts. Wiley, Goldsmith, and Cheng do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Wiley and Cheng already included packaging, since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

33. Claims 451-452 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, in view of Goldsmith and McFarland, as applied above, and further in view of Montanari et al.

Cheng, Goldsmith, and McFarland teach the above mentioned concepts. Cheng, Inglis et al, Goldsmith, and McFarland do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Cheng and Goldsmith already included packaging, and since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

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34. Claims 453-454 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, in view of Shaklai, as applied above, and further in view of Montanari et al. Cheng and Shaklai teach the above mentioned concepts. Cheng and Shaklai do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Cheng already included packaging, and since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

35. Claims 455-456 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2242865A, in view of Goldsmith, as applied above, and further in view of Montanari et al.

DE 2242865A and Goldsmith teach the above mentioned concepts. DE 2242865A and Goldsmith do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Goldsmith already included packaging, and since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

36. Claims 457-460 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Cheng, as applied above, and further in view of Montanari et al.

Groves et al and Cheng teach the above mentioned concepts. Groves et al and Cheng do not recite information related to water content. Montanari et al teach a method of packaging meat by labeling the package with information (column 14, line 45). It would have been obvious to one of ordinary skill in the art to label the water content since Cheng already included packaging, and since the labels of Montanari et al would have provided an effective means of conveying information related to the package contents, and since the water content was commonly applied to food labels.

37. Claim 470 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Cheng, as applied above, and further in view of EP 94877A2.

Groves et al and Cheng teach the above mentioned concepts. Groves et al and Cheng do not recite controlling the water content. EP 94877A2 teach a method of making ground meat by controlling the water content (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al already included meat grinding, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

38. Claim 471 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of Inglis et al, Goldsmith, and McFarland, as applied above, and further in view of EP 94877A2.

Groves et al, Inglis et al, Goldsmith, and McFarland teach the above mentioned concepts. Groves et al, Inglis et al, Goldsmith, and McFarland do not recite controlling

the water content. EP 94877A2 teach a method of making ground meat by controlling the water content (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al already included meat grinding, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

39. Claim 472 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wiley, in view of Cheng and Goldsmith, as applied above, and further in view of EP 94877A2. Wiley, Cheng, and Goldsmith teach the above mentioned concepts. Wiley, Cheng, and Goldsmith do not recite controlling the water content. EP 94877A2 teach a method of making ground meat by controlling the water content (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Wiley since both are directed to methods of processing meat, since Wiley already included ground meat, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

40. Claim 473 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng, in view of Goldsmith and McFarland, as applied above, and further in view of EP 94877A2.

Cheng, Goldsmith, and McFarland teach the above mentioned concepts. Cheng, Goldsmith, and McFarland do not recite controlling the water content. EP 94877A2 teach a method of making ground meat by controlling the water content (abstract). It

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would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Cheng, in view of Goldsmith and McFarland, since both are directed to methods of processing meat, since McFarland already included meat grinding, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

41. Claims 474-475 are rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of DE 2242865A and Montanari et al, as applied above, and further in view of EP 94877A2.

Groves et al, DE 2242865A, and Montanari et al teach the above mentioned concepts. Groves et al, DE 2242865A, and Montanari et al do not recite controlling the water content. EP 94877A2 teach a method of making ground meat by controlling the water content (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al already included meat grinding, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

42. Claim 476 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al, in view of DE 2242865A, Montanari et al, and Shaklai, as applied above, and further in view of EP 94877A2.

Groves et al, DE 2242865A, and Montanari et al teach the above mentioned concepts. Groves et al, DE 2242865A, and Montanari et al do not recite controlling the water content. EP 94877A2 teach a method of making ground meat by controlling the water

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content (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the water adjustment of EP 94877A2 into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al already included meat grinding, and since the water adjustment of EP 94877A2 would have provided a more desirable meat product by better controlling its content.

43. Claim 484 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of McFarland.

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content and batch number related to the animal from which it was harvested (column 4, line 66 to 5, line 20), and conduits (Figure 1, #53-56). Groves et al do not teach the use of carbon dioxide. McFarland teaches a method of grinding meat with an atmosphere of carbon dioxide (column 3, line 15). It would have been obvious to one of ordinary skill in the art to incorporate the carbon dioxide of McFarland into the invention of Groves et al since both are directed to methods of processing and packaging meat, since Groves et al already included grinding (Figure 1, #15), since carbon dioxide was well known as a meat preservative, and since carbon dioxide atmospheres were commonly used during grinding and blending as shown by McFarland (Figure 1).

44. Claims 485-486 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 2242865A in view of Inglis et al.

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DE 2242865A teaches a method comprising transferring meat to a vessel, blending the ground meat with carbon dioxide, and measuring the fat (abstract). DE 2242865A does not recite packaging the meat. Inglis et al teach a method of treating meat by applying a bacteria reducing agent in the form of carbonic acid (column 4, line 50), exposing the meat to carbon dioxide (column 7, line 41), the use of sealed, case-ready barrier packages (column 3, line 53), and the removal of oxygen and use of a modified atmosphere in the barrier package (column 1, lines 10-18). It would have been obvious to one of ordinary skill in the art to incorporate the packaging techniques of Inglis et al into the invention of DE 2242865A since both are directed to methods of processing meat, since DE 2242865A used raw meat which often included bacteria, since DE 2242865A would have required some means to package the blended raw meat, and since the packaging of Inglis et al (column 1, lines 10-18) would have effectively preserved the meat of DE 2242865A.

45. Claim 487 is rejected under 35 U.S.C. 103(a) as being unpatentable over Groves et al in view of Inglis et al and DE 3712042A1.

Groves et al teach a method for producing meat by providing two streams of meat with fat, measuring the fat content of the streams, blending the streams in a vessel with gas, a printing station for information such as fat content and batch number related to the animal from which it was harvested (column 4, line 66 to 5, line 20), and conduits (Figure 1, #53-56). Groves et al do not teach treating the meat with nitrogen, transferring to barrier packages, and sealing the packages. Inglis et al teach a method of treating meat by applying a bacteria reducing agent in the form of carbonic acid

(column 4, line 50), exposing the meat to carbon dioxide (column 7, line 41), determining the water content and adding the proper amount (column 4, line 10), the use of sealed, case-ready barrier packages (column 3, line 53), and the removal of oxygen and use of a modified atmosphere in the barrier package (column 1, lines 10-18). It would have been obvious to one of ordinary skill in the art to incorporate the carbonic acid and packaging techniques of Inglis et al into the invention of Groves et al since both are directed to methods of processing meat, since Groves et al used raw meat which often included bacteria, since Groves et al would have required some means to package the blended raw meat, since the carbonic acid of Inglis et al would have reduced the amount of bacteria without negatively impacting the taste of the meat (column 3, line 25-28), and since the packaging of Inglis et al would have effectively preserved the meat of Groves et al (column 1, lines 10-18). DE 3712042A teaches a method of grinding meat in a nitrogen atmosphere (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the nitrogen of DE 3712042A into the invention of Groves et al since both are directed meat processing, since Groves et al already included grinding, and since the nitrogen atmosphere of DE 3712042A would have prevented decomposition of the meat (abstract).

Response to Arguments


46. Applicant's arguments with respect to claims 353-373 and 422-487 have been considered but are moot in view of the new ground(s) of rejection.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Thur. 8am-5pm and every other Fri. 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on 571-272-1398. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Drew E Becker
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